

REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

A. Status of the Claims

As a result of the present amendment, claims 1-16 are presented for continued prosecution.

Claims 2-12 have been amended to remove multiple dependency. New claims 13-16 have been added as a result of the amendments to claims 2-12. New matter has not been added.

B. Abstract Objections

The Examiner objected to the abstract for not being presented on a separate page. Applicant has attached a replacement abstract on a separate page as correction.

C. Claim Objections

Claims 4-12 had been objected to for being improper multiple dependent claims. As mentioned above, claims 4-12 had been amended to remove multiple dependency. It is believed that claims 4-12 are in proper form and are in condition to be examined on the merits.

D. The Invention

The present invention, as defined by the amended claims, includes a stapler that adapts to accommodate different sizes of staples and/or nails to be ejected.

In one of the novel aspects of the invention, mobile plate 7 is moved by slider 8 from a rest position to an operative position between ejection head 5 and striker 6 (see Fig. 1 of the application). As shown in Fig. 1, ejection head 5 is located in the vicinity of striker 6. When mobile plate 7 is moved to the operative position between ejection head 5 and striker 6, staples 13 abut mobile plate 7 prior to ejection by striker 6 (see Fig. 8 and lines 17-19 on page 3). A thin-sized staple can therefore be ejected when mobile plate 7 is in the operative position (see lines 18-20 on page 3). When mobile plate 7 is in its rest position, mobile plate 7 is no longer located between ejection head 5 and striker 6, and staples 3 freely abut ejection head 5 prior to ejection by striker 6 (see Fig. 5). A normal thickness staple can therefore be ejected when

mobile plate is in the rest position (see lines 17-18 on page 3). Thus, by moving mobile plate 7 from its rest position to its operative position, mobile plate 7 acts as a movable physical barrier which allows the stapler to accommodate staples and/or nails of various thicknesses (page 1, lines 19-20 of the application).

E. Claim Rejections under 35 U.S.C. §102

Claims 1 and 3 had been rejected as being anticipated by Deng (U.S. 6,076,720). Claims 1-3 had been rejected as being anticipated by Nakamura (U.S. 5,497,931).

In order to maintain an anticipation rejection under 35 U.S.C. §102, the prior art must disclose each and every element of the rejected claims with sufficient clarity to prove its existence in the prior art. Applicant respectfully submits that Deng and Nakamura do not anticipate the claimed invention for at least the following reasons.

I. Deng does not teach or suggest a mobile plate that slides to a position between the ejection head and the striker as recited in claim 1

Deng teaches a stapler that accommodates different-sized staples by moving sliding plate 24 between an uppermost and a lowermost position (see the upper-left portion of Fig. 1). Movement between the uppermost and lowermost positions causes sliding plate 24 to contact different locations of adjusting member 30 to facilitate the ejection of different sized staples. This effect is achieved with the assistance of either first pressing strips 32 or second pressing strips 36 (see lines 6-32 in col. 3 of Deng).

In the uppermost position, sliding plate 24 presses against first pressing strips 32 which bend and flex to facilitate the ejection of first staples 40 (see Fig. 3 and lines 6-18 in col. 3 of Deng). In the lowermost position, sliding plate 24 presses against second pressing strips 36 which bend and flex to facilitate the ejection of second staples 42 (see Fig. 3 and lines 19-32 in col. 3 of Deng). With regard to physical configuration, first and second pressing strips 32,36 of adjusting member 30 are leg-like deformable members that bend and flex in a horizontal direction to facilitate ejection of different sized staples.

The Examiner cited adjusting member 30 of Deng, which includes first and second pressing strips 32,36, to teach mobile plate 7 of the claimed invention. Applicant respectfully submits that adjusting member 30 of Deng is not mobile plate 7 of claim 1.

As recited in claim 1 and illustrated in Fig. 1, mobile plate 7 slides from a rest position to an operative position between ejection head 5 and striker 6. When mobile plate 7 is between ejection head 5 and striker 6, staples 13 abut mobile plate 7 prior to ejection by striker 6 (see Fig. 8 and lines 17-19 on page 3). Consequently, the operative position of mobile plate 7 between ejection head 5 and striker 6 allows the stapler to eject thinner staples and/or nails.

In contrast to claim 1, adjusting member 30 of Deng is not located between striker 112 of Deng and ejection head 122¹ of Deng (see Figs. 3 and 5). Instead, adjusting member 30 is located to the left of ejection head 122 and to the left of striker 112 (see Figs. 3 and 5). From this left-side location, adjusting member 30 contacts the staples by movement of flexible and bendable first and second pressing strips 32,36 (see Figs. 3 and 5).

Deng does not anticipate claim 1, because adjusting member 30 of Deng or its corresponding first and second pressing strips 32,36 do not slide to a location between ejection head 122 and striker 112. Instead, the cited elements of Deng are located to the left of ejection head 122 and to the left of striker 112 (see Figs. 3 and 5). The structure of the stapler recited in claim 1 therefore differs from the structure of the stapler disclosed by Deng, and Deng as a result does not anticipate claim 1.

2. Deng does not teach or suggest a plate that is mobile and that slides in the body of the stapler

Claim 1 recites that plate 7 is mobile and slides in the main body from a rest position to an operative position. Since mobile plate 7 is slidable and in the configuration of a plate, it can slide into a location between ejection head 5 and striker 6. Thus, the stapler of the present invention can accommodate different-sized staples and/or nails as illustrated in Figs. 4-9 of the application.

¹ As described in section D above, the ejection head of the present invention is located in the vicinity of the striker, and the ejection head is the portion of the stapler where the staples abut when mobile plate 7 is in its rest position, i.e., when mobile plate 7 is not between ejection head 5 and striker 6. "Closed face 122" of Deng is considered the ejection head, because closed face/ejection head 122 is in the vicinity of striker 112 and corresponding ejection slot 121, and staples 40 appear to abut closed face/ejection head 122 prior to striking (see Fig. 3 and lines 53-60 in col. 1 of Deng).

Adjusting member 30 of Deng is not a plate as recited in claim 1, and adjusting member 30 does not slide as recited in claim 1. Rather, adjusting member 30 is a stationary component, having leg-like bendable/deformable first and second pressing strips 32, 36 (Fig. 1 and col. 3, lines 6-32 of Deng). Those in the art do not consider adjusting member 30 or its first and second pressing strips 32, 36 to be a slidable plate as recited in claim 1 of the present application. Instead, adjusting member 30 of Deng is considered a stationary component, and its first and second pressing strips 32, 36 are considered bendable legs or extensions. Such bendable legs/extensions flex under pressure, they do not "slide" in the customary meaning of this term as it is used in the present application.

Applicant respectfully submits that Deng does not anticipate claim 1, because adjusting member 30 having first and second pressing strips 32, 36 are not a mobile "plate" that "slides" in the stapler body as recited in claim 1.

3. Deng does not teach or suggest a mobile plate that slides in a direction parallel to the run direction of the striker

Claim 3 recites that mobile plate 7 can slide in a direction substantially parallel to the run-direction to striker 6. This aspect of the invention is illustrated, for example, in Fig. 1, which illustrates that both mobile plate 7 and striker 6 move in a vertical manner.

Adjusting member 30 of Deng does not slide parallel to the run direction of ejector 112. Instead, first and second pressing strips 32, 36 of adjusting member 30 bend/flex in a direction perpendicular to the run-direction of ejector 112. This aspect of Deng is shown in Figs. 3 and 5, which illustrate first and second pressing strips 32, 36 moving in a horizontal direction, while ejector 112 is moving in a vertical direction to eject staples from slot 121. Thus, adjusting member 30 of Deng does not slide in a direction parallel to the run-direction of ejector 122 as recited in claim 3 of the present application.

It is respectfully submitted that claim 3 is not anticipated by Deng.

4. Nakamura does not teach or suggest a mobile plate that slides to a position between the ejection head and the striker as recited in claim 1

As discussed above, one of the novel aspects of claim 1 is that mobile plate 7 can slide from a rest position to an operative position between ejection head 5 and striker 6. This aspect of

the claimed invention is illustrated in Fig. 5 which shows mobile plate 7 in a lifted, rest position, and in Fig. 8 which shows mobile plate 7 in a lowered, operative position between ejection head 5 and striker 6 (see lines 17-22 on page 3 of the application).

As shown in Fig. 1, Nakamura teaches a stapler with lock plate 67 attached to guide plate 54 having guide recesses 57, 58, and 59 that accommodate different-sized staples (col. 5, lines 33-37 of Nakamura). Fig. 1 of Nakamura shows that lock plate 67 has operation buttons 73. By applying pressure on operation buttons 73, lock plate 67 moves in the fore and aft directions (col. 4, lines 54-56 and col. 5, lines 14-15 of Nakamura). The Examiner cited lock plate 67 in Fig. 1 of Nakamura to teach the claimed mobile plate 7. Applicant respectfully submits that lock plate 67 of Nakamura is not the claimed mobile plate 7.

In contrast to mobile plate 7 of claim 1, lock plate 67 does not slide into a position between striker 32 and guide plate 104² of Nakamura. Instead, as illustrated in Figs. 2 and 3 of Nakamura, lock plate 67 is located above and away from guide plate 104 and striker 32. Thus, lock plate 67 of Nakamura does not slide to a position between the ejection head and the striker as recited in claim 1 of the present application. Rather, lock plate 67 moves in the "fore and aft directions" as illustrated in Fig. 1 of Nakamura, and such movement is away from and not in between striker 32 and ejection head 104.

Applicant respectfully submits that Nakamura does not anticipate claim 1.

5. Lock plate 67 of Nakamura does not slide in a direction parallel to the run direction of striker 32

Claim 3 recites that mobile plate 7 slides in a direction substantially parallel to the run-direction of striker 6. This aspect of the claimed invention is illustrated in Fig. 1, which shows that both mobile plate 7 and striker 6 move in a vertical direction.

In contrast to claim 3, lock plate 67 of Nakamura moves only "in the fore and aft directions", namely, in a direction substantially perpendicular to the run direction of striker 32

² Guide plate 104 of Nakamura is considered the ejection head, because staples A appear to abut guide plate/ejection head 104 prior to striking (see Figs. 2 and 3 of Nakamura).

(see col. 4, lines 4-56 of Nakamura). The direction of movement of lock plate 67 of Nakamura therefore differs from the direction recited in claim 3.

Applicant respectfully submits that claim 3 is not anticipated by Nakamura.

F. Fees

This Response is being filed within the shortened statutory period for reply. No fee is believed to be due. If, on the other hand, it is determined that fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275. Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

G. Conclusion

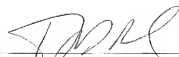
In view of the actions taken and arguments presented, it is respectfully submitted that each and every one of the matters raised by the Examiner has been addressed by the present amendment and that the present application is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By:

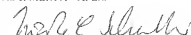


Timothy D. Meade
Registration No. 55,449

LUCAS & MERCANTI, LLP
475 Park Avenue South
New York, NY 10016
Phone: 212-661-8000
Fax: 212-661-8002

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LUCAS & MERCANTI, LLP

By: 
Nicole Schuller

Attachment: Replacement abstract